

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Declaratory Ruling of the National)	
Association of Broadcasters Regarding)	MB 04-160
Programming Carried by Satellite Digital)	
Audio Radio Service Providers)	
)	

**Reply Comments of the
United States Department of Transportation**

Introduction

The National Association of Broadcasters (“NAB”) has petitioned the Federal Communications Commission (“FCC” or “Commission”) in this proceeding to bar providers of satellite digital audio radio services (“SDARS”) from transmitting nationwide the traffic and weather conditions in various metropolitan areas. The United States Department of Transportation (“DOT” or “Department”) strongly supports widespread dissemination of such information in the interests of enhancing safe and efficient transportation. In response to suggestions that it is not in the public interest for SDARS providers to do this, DOT submits these reply comments.

The Record

The NAB seeks to stop SDARS providers from transmitting throughout the country information on the traffic, roadway, and weather conditions in particular communities. Among other things, NAB considers transmission of such information by satellite radio “essentially duplicative” of services provided by terrestrial radio broadcasters, and thus by implication of little real value to the public. Petition at 17. Similarly, Radio One, Inc. contrasts SDARS’ dissemination of this information with

“*new* services that local radio inherently cannot provide.” Comments of Radio One, Inc. at 1, *quoting* 12 FCC Rcd 5754 (1997).

Such comments are inaccurate on their face. Not only is the information conveyed by SDARS providers more frequently updated and thus more accurate, but local broadcasters simply cannot offer such information to those outside the very finite range of their transmissions, usually a discrete community area.¹ More importantly, they fail to appreciate the true value of making travel-related information widely available beyond such areas and on a continuous basis. The Department is participating in this proceeding in order to emphasize the contributions to the public interest of services like these.

The Public Interest

It is beyond question that there is a strong public interest in making available to drivers information that is relevant to their actual and potential journeys. Awareness of traffic congestion, the locations and consequences of accidents, road surface conditions, weather, etc. is important to travelers because it enables them to make better decisions about whether and when to travel, which route(s) to follow, what equipment to carry, and what contingencies to anticipate. Informed decisions, in turn, allow motorists, including commercial drivers of over-the-road trucks and buses, to avoid adding to congestion or emergency response problems, save time, and reduce fuel consumption and pollution. The result is enhanced safety, efficiency, and predictability, as well as improved traffic management.

Local television and radio stations know this information has value to the public, so they broadcast it on a regular basis throughout the day. Its value and benefits to the traveling public, however, are not limited to those who live or drive daily within specific community boundaries. DOT in 1999 asked the Commission to make such information

^{1/} Some commenters suggest that SDARS’ transmission of travel-related information would harm local broadcasters and therefore the residents of such communities. *See* Comments of Radio One and State Broadcasters Associations. But there is precious little explanation of how that would occur and certainly no evidence. Moreover, as the Commission stressed in approving SDARS, “The public interest in this regard is the provision of services of value to the listening public and includes the protection of competition, not competitors.” 12 FCC Rcd 5754 at ¶ 9 (footnote omitted).

available throughout the country by means of a single abbreviated telephone dialing code. *Petition by the U.S. Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide*, Public Notice DA 99-761, CC Dkt. No. 92-105 (1999). We did so, in part, because both local and long-distance travelers did not have easy, continuing access to this type of information as they drove through different communities, and we knew that once made readily available this information would be used, and the greater its use the more benefits would accrue. *Id.*²

The Commission agreed and granted the Department's request. *Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration*, 15 FCC Rcd 16753, FCC 00-256 (Released July 31, 2000). Such dialing codes are a scarce national resource, allocated only when a stringent public interest test is met. *Id.* at ¶ 10. The FCC allocated "511" as the nationwide telephone number for access to travel-related information in order to maximize the use and the benefits of travel-related information, including "decreasing traffic congestion, reducing air pollution and inefficient use of fossil fuels, improving the nation's productivity on and off the roadways, and improving traveler safety." *Id.*, at ¶ 13.

From this perspective, access to such information via satellite radio differs only in degree from access via an abbreviated dialing code. The difference is one of geographic reach, but the core point was and is to ease access in order to reap the benefits of informed decisions by travelers. The instant petition and the comments of some parties seek to deny this, but they cannot. Not only does reality and FCC precedent stand against the petition, but the record in this proceeding is overwhelmingly comprised of the comments of thousands of individuals attesting to the benefits derived from access to travel-related conditions pertaining to areas outside of their own localities.³ These

^{2/} The information available through 511 is also route-specific at the request of individual travelers.

^{3/} See, e.g., Comments of Dr. David Livingstone, Phillip Parish, Gary Epstein, Steve Wintermote, to list but a tiny fraction of these pleadings. These comments are virtually all extremely short, but they are utterly personal statements of the value this information has for each of them, rather than the identical submissions

benefits are exactly those anticipated by the Department and the Commission. As DOT and the FCC have recognized, improving access can only serve the public interest in safe and efficient transportation.

Conclusion

The Department, the Commission, and travelers everywhere know that there is a strong public interest in making travel-related information readily available. They know as well that the value of such information, even when pertinent to particular metropolitan areas, is not constrained to those living and working within the boundaries of those communities. The NAB Petition seeks to limit dissemination of this information, and thus its benefits, to those within the reach of particular media. DOT opposes such a restriction, and we ask the Commission to deny the Petition.

Respectfully submitted,

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